IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 16846 of 2007(E)

PETITIONER:

MURALEEDHARAN, S/O. UNNI NEDUMGADI,
POONOTH, EDAPPALAM, VILAYOOR, OTTAPPALAM.

BY ADV. SRI.M.C.JOHN

RESPONDENTS:
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1. THE CIRCLE INSPECTOR OF POLICE,
TOWN SOUTH, PALAKKAD.

2. THE SUB INSPECTOR OF POLICE,
TOWN SOUTH POLICE STATION, PALAKKAD.

3. THE ASSISTANT EXCISE COMMISSIONER,
PALAKKAD.

4. THE DISTRICT COLLECTOR,
PALAKKAD.

5. CHAMUNNI, S/O. CHAMIYAR,
VALAPPIL VEEDU, OLASSERY P.O., PALAKKAD.

6. SUKUMARAN, S/O. THEYYAN,
VALAPPIL VEEDU, OLASSERY P.O., PALAKKAD-678 551.

7. VIJAYAN, S/O. SUBRAMANIAN,
VALAPPIL VEEDU, OLASSERY P.O., PALAKKAD.

8. RAMACHANDRAN, S/O. VELAYUDHAN,
VALAPPIL VEEDU, OLASSERY P.O., PALAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
BY GOVERNMENT PLEADER SRI.P.A. SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXTP1: TRUE COPY OF THE COMMUNICATION DT. 2.4.2007 ISSUED BY 3RD RESPONDENT.

EXT.P2: TRUE COPY OF THE RELEVANT PAGES OF LICENCE NO.154/2007-08 DATED 28.4.2007

EXT.P3: TRUE COPY OF THE COMPLAINT DATED 30.5.2007 SUBMITTED BEFORE 1ST RESPONDENT.

EXT.P4: TRUE COPY OF THE RECEIPT DATED 30.5.2007.

EXT.P5: TRUE COPY OF THE ORDER DATED 11.5.2007 IN WP(C).14357/2007.

RESPONDENTS' EXHIBITS:

EXT.R6(A): TRUE COPY OF THE REPRESENTATION DATED 8.6.2007

/ TRUE COPY /

P.S. TO JUDGE.

P.R. RAMAN & K. HEMA, JJ.

W.P.(C).No.16846 of 2007

Dated this the 11th day of June, 2007.

JUDGMENT

Raman, J.

The petitioner is a licensee of toddy shop No. 80 for the year 2007-08 in Kannamkode. It is alleged that respondents 5 to 8 and their supporters are creating unnecessary obstruction to the petitioner's shop. It is alleged that. in spite of the complaint made to respondents 1 and 2, no effective steps are taken to contain the obstruction to maintain law and order. Hence, this writ petition.

2. Respondents 5 to 8 filed a counter-affidavit. According to them the shop is located in the midst of 60 houses and there are a lot of women folk returning from work after dusk. It is also alleged that there is a Senior Basic School and K.E.C.T. English Medium School within the radius of 400 metres from the shop. According to them, location of the toddy shop till 2002-03 was one kilometer away where there was no residential building nearby. Exhibit R6(a) is copy of a petition submitted before the District Collector.

3. The petitioner, on the other hand, would submit that the shop is located within the area as notified in the Gazette and a copy

of the Gazette notification was also made available for perusal. According to him, the fact that the shop was conducted earlier in a different place by some other contractor will not in any way affect his conduct of business in the licenced premises so long as the same is within the area as notified in the Gazette. He also submits that though in the counter affidavit an allegation is made that two schools are functioning within 400 metres, he points out tthat no such complaint is made in Ext.R6(a) submitted to the District Collector and as such this is only an after-thought and bereft of any bonafides. Learned Government Pleader, on instructions, submits that so long as Ext.P2 licence is in force, the State will afford necessary protection to the life and property of petitioner.

4. Heard learned Government Pleader and also learned counsel for respondents. Exhibit P2 licence was granted in favour of the petitioner by the Excise Department. So long as Ext.P2 licence is in force and so long as petitioner is conducting the business in the premises as per Ext.P2 and strictly in accordance with the licence conditions, there cannot be any physical obstruction caused to the conduct of business by the petitioner. However, if there is any grievance for respondents 5 to 8, they are entitled to be heard in the matter. In the circumstances, we direct that, so long as Ext.P2

license is in force and there is no orders prohibiting the conduct of business as ordered by the statutory authority in accordance with law and so long as petitioner is carrying business inside the licensed premises strictly in accordance with the terms and conditions, there cannot be any physical obstruction caused to such business and, if any obstruction is caused , the State shall give adequate and necessary protection . There will also be a direction to the District Collector to dispose of Ext.R6(a) after hearing the parties.

Writ Petition is disposed of as above.

P.R.RAMAN, JUDGE.

K. HEMA, JUDGE.

Krs.